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REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

Letter dated 5 June 1992 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of the Declaration by the Supreme Rada (Parliament) of Ukraine adopted on 2 June 1992 in connection with the adoption by the Supreme Soviet of the Russian Federation of the Enactment on the status of the Crimea (see annex).

I should be grateful if you would have the text of the present letter and its annex circulated as an official document of the General Assembly under item 69 of the preliminary list.

(Signed) Victor H. BATIOUK
Ambassador
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to the United Nations

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Annex

DECLARATION BY THE SUPREME RADA OF UKRAINE CONCERNING THE DECISIONS BY THE SUPREME SOVIET OF THE RUSSIAN FEDERATION ON THE QUESTION OF CRIMEA

On 21 May 1992, the Supreme Soviet of the Russian Federation adopted an enactment on a legal appraisal of the decisions adopted in 1954 by the supreme organs of State power of the Russian Soviet Federative Socialist Republic (RSFSR) on changing the status of Crimea, under article 1 of which the resolution of the Presidium of the Supreme Soviet of the RSFSR of 5 February 1954 on the transfer of the Crimean region from the RSFSR to the Ukrainian SSR was declared "null and void from the moment of its adoption" on the grounds that it was allegedly adopted in violation of the Constitution (basic law) of the RSFSR and its legal procedure.

Since any decision concerning Crimea which is adopted not by Ukraine, but by an organ of State power of another State, infringes upon the "rights inherent in the sovereignty" of Ukraine and, in particular, "the right of every State to ... territorial integrity" (Principle I of the Declaration on Principles of the Helsinki Final Act adopted by the Conference on Security and Cooperation in Europe (CSCE)),

the Supreme Rada of Ukraine declares:

1. From a legal point of view, article 1 of the enactment by the Parliament of Russia of 21 May 1992 entails no legal consequences for Ukraine and does not affect the territorial status quo which came into existence between Ukraine and Russia during the time between the incorporation of the Crimean region into the Ukrainian SSR and the proclamation by Ukraine of its State independence on 24 August 1991, endorsed by the nationwide Ukrainian referendum of 1 December 1991, for the following reasons:

(a) The enactment by the Supreme Soviet of the Russian Federation of 21 May 1992 does not set aside and cannot declare null and void the other legal norms of the legislation of Russia by which the legal status of Crimea was determined, in particular, article 14 of the Constitution of the RSFSR of 1936 (with amendments and additions, which remained in effect until 1978), in accordance with which the Crimean region was excluded from the territory of the RSFSR in 1954, and article 71 of the Constitution of the RSFSR of 1978, in accordance with which the Crimean region did not form part of the RSFSR, as well as article 18 of the Constitution of the Ukrainian SSR of 1937 and article 77 of the Constitution of the Ukrainian SSR of 1978, in accordance with which the Crimean region formed part of the Ukrainian SSR;

(b) The Russian Federation is not the sole successor State of the former USSR. The legal successors of the USSR, as established by the documents concluded within the framework of the Commonwealth of Independent States, are all the former Soviet republics, including Ukraine. Consequently, the Russian

Federation does not have the power unilaterally to set aside legal norms or acts adopted by the USSR. This applies, in particular, to the Decree of the Presidium of the Supreme Soviet of the USSR on the transfer of the Crimean region from the RSFSR to the Ukrainian SSR of 19 February 1954, the Act of the USSR on the transfer of the Crimean region from the RSFSR to the Ukrainian SSR of 26 April 1954 and articles 22 and 23 of the Constitution of the USSR of 1936 (with amendments and additions, effective until 1977), in accordance with which the Crimean region was incorporated into the Ukrainian SSR;

(c) The Supreme Soviet of the Russian Federation, in article 2 of its enactment of 21 May 1992, recognized "the constitutionality conferred by subsequent legislation of the RSFSR on the fact in question" - the transfer of the Crimean region from the RSFSR to the Ukrainian SSR. Following the principle of the hierarchy of legal norms, the recognition by the Russian Parliament of the validity of the constitutional norms of Russian legislation concerning the legal status of Crimea has the effect of nullifying any resolutions by the Supreme Soviet of Russia on this matter;

(d) The definitive constitutional legalization of the transfer of the Crimean region from the RSFSR to the Ukrainian SSR was effected in full compliance with the requirements of the Constitution of the USSR in force at that time. Under article 14 of the Constitution of the USSR, it lay within the competence of the USSR, through its supreme organs of State power and State administration, to ratify changes in the frontiers between the Union republics (paragraph (a)) and to ratify the formation of new regions within the Union republics (paragraph (f)). In accordance with paragraphs (a) and (f) of article 14 of the Constitution of the USSR, the Supreme Soviet of the USSR, by the Act of the USSR of 28 April 1954, ratified the Decree of the Presidium of the Supreme Soviet of the USSR of 19 February 1954 concerning the transfer of the Crimean region from the RSFSR to the Ukrainian SSR, adopted on the basis of "the joint submission by the Presidium of the Supreme Soviet of the RSFSR and the Presidium of the Supreme Soviet of the Ukrainian SSR", and made the corresponding amendments to articles 22 and 23 of the Constitution of the USSR, in accordance with which the Crimean region formed part of the Ukrainian SSR.

2. In the complete absence of any formal and legal grounds for a review of the question of the legal status of Crimea, the Supreme Soviet of the Russian Federation has resorted to an unfriendly act vis-à-vis Ukraine, motivated by purely political considerations.

The Russian Parliament has set out the political motives for its actions in its statement to the Supreme Rada of Ukraine, adopted on 22 May 1992.

In that statement, the Russian Parliament groundlessly describes the policy of Ukraine as one which is "harmful to the world community as a whole" and which "fails to take into account the aspirations of all peoples to live in peace and harmony with the peoples of the former Soviet Union". The leaders of Ukraine are insultingly described as "failing, in the deteriorating economic conditions of their States and peoples, properly to appreciate the

true realities and the obvious urgency of the task of restoring and developing the disrupted economic and production relations". Without asking the people of Ukraine, the Russian Parliament has decided for itself what is and what is not in the interests of the people of Ukraine and of other peoples, declaring: "the universal strengthening of concord and the processes of integration is in the interest of peoples".

The Supreme Soviet of Russia proclaims its intention "strictly to observe the fundamental principles of the United Nations Charter and of the CSCE". The documents of the Russian Parliament of 21 and 22 May 1992, however, furnish direct evidence of the reluctance of the supreme legislative organ of Russia to observe Principle III of the Declaration on Principles of the Helsinki Final Act, in accordance with which States members of CSCE "regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers", or Principle IV, under which participating States undertook to respect the territorial integrity of each of the participating States.

The position of the Russian Parliament on questions concerning the borders between Ukraine and Russia is ambiguous and contradictory, since it is impossible to divide the borders between Russia and Ukraine into those "existing within the framework of the Commonwealth of Independent States" and those existing outside the framework of the Commonwealth of Independent States. In that way the principle of the inviolability of borders is artificially made conditional upon participation in the Commonwealth of Independent States. The operation of one of the fundamental principles of international law applies equally to the State border of Ukraine and the State border of Russia.

The documents from the Russian Parliament are at variance with Principle VI of the Declaration on Principles of the Helsinki Final Act, requiring the participating States to refrain "from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations". Consideration by the Russian Parliament of a matter affecting the question of the legal status of Crimea is direct intervention in the internal affairs of Ukraine falling within the domestic jurisdiction of Ukraine. Under the current Constitution and legislation of Ukraine, Crimea is an autonomous component of Ukraine whose status must be determined through the domestic jurisdiction of Ukraine in accordance with the manner in which other States Members of the United Nations resolve questions concerning the rights of their autonomous components and the correlation of authority between the central organs of power and the autonomous organs of power.

These actions by the Russian Parliament are also direct interference in the external affairs of Ukraine, and are at variance with Principle VIII of the Declaration on Principles of the Helsinki Final Act, according to which "all peoples always have the right, in full freedom, to determine, when and as

they wish, their internal and external political status, without external interference". In demanding that Ukraine "refrain from any actions aimed at suppression of the free will of the population of Crimea", the Parliament of Russia is, at the same time, denying that right to the people of Ukraine, and linking the problem of Crimea, of the inviolability of Ukraine's borders and of the preservation of its territorial integrity with such questions as the policy of Ukraine within the framework of the Commonwealth of Independent States, the military policy of Ukraine and the question of the Black Sea Fleet. The question of whether Ukraine is or is not in the Commonwealth of Independent States must be decided only by Ukraine, and not by the Russian Parliament. The question of what external and internal policy Ukraine is to pursue must be decided by Ukraine itself, and not by the Russian Parliament. Questions concerning the Black Sea Fleet are decided within the framework of bilateral negotiations between Ukraine and Russia.

In Ukraine there are no manifestations of "the oppression of the rights of representatives of the Russian people, or of other nations and nationalities living in the territory of Ukraine and having historic links with Russia".

In fact, Ukraine secures and guarantees strict observance of the rights of the entire population of Crimea, including those of the Crimean Tatar people, and will not take any actions directed at the oppression of the free will of the population of Crimea as established in accordance with the principles of international law and within the framework of the Constitution of Ukraine.

Therefore, the actions of the Russian Parliament can only be regarded as an attempt to exert political pressure and as an act of political blackmail against Ukraine.

This position taken by the Russian Parliament is clearly contrary to Principle IX of the Declaration of Principles of the Helsinki Final Act, according to which the participating States of CSCE stated that they would endeavour "to promote mutual understanding and confidence, friendly and good-neighbourly relations among themselves, international peace, security and justice".

The Supreme Rada of Ukraine regards the actions of the Parliament of Russia to be such as to cause great harm to the friendly and good-neighbourly relations between Ukraine and Russia, threaten mutual understanding and confidence and undermine international peace and security in Europe. Furthermore, such actions contravene Principle X of the Declaration on Principles of the Helsinki Final Act, which requires the participating States of CSCE to fulfil in good faith their obligations under international law.

The actions of the Supreme Soviet of the Russian Federation contravene seven of the ten Principles of the Helsinki Final Act which have come to be called the "Ten Commandments of Peace" or the "Charter for a Peaceful Life in Europe", and thereby also violate other norms of international law, in

particular the provisions of article 6 of the treaty between the Ukrainian SSR and the RSFSR of 19 November 1990 and article 5 of the Agreement establishing the Commonwealth of Independent States, signed at Minsk on 8 December 1991.

The Supreme Rada of Ukraine unreservedly repudiates the attempts by the Parliament of Russia to conduct its policy with respect to Ukraine from a position of Great Power chauvinism based on "the right of the powerful" or the right of "big brother".

The Supreme Rada of Ukraine repudiates the groundless demand of the Supreme Soviet of Russia that the question of Crimea "be settled through inter-State negotiations between Russia and Ukraine".

The Supreme Rada of Ukraine draws the attention of the participating States of CSCE, the permanent members of the United Nations Security Council and all States of the international community to the inadmissibility of a policy of silence when there are clear cases of a declaration of territorial claims against Ukraine by Russia. A policy of silence and non-interference in this case is, in essence, a policy that will contribute to a variant of the events in Yugoslavia being transferred to the land of Ukraine.

A timely and effective reaction on the part of the international community can still stop those who are inciting and kindling enmity between nations in Crimea and who along the lines of Karabakh, the Trans-Dniester Republic and South Ossetia are striving by force to compel Ukraine to give up its independence.

Ukraine will remain faithful to the principles and provisions of the bilateral Treaty concluded with Russia on 19 November 1990.

Ukrainian-Russian relations must be based on and developed exclusively in accordance with international law and through equal dialogue. Only in that way can the feelings of friendship, mutual respect and cooperation between the peoples of Ukraine and Russia, which are essential for us and for the whole of Europe, be preserved.

Supreme Rada of Ukraine
Kiev, 2 June 1990